



April 26, 2002

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Dear Mr. Grubaugh and Mr. Ellis,

Thank you for the opportunity to review and comment on the IID Water Conservation and Transfer/Draft HCP and Draft EIR/EIS. While the comments herein are, by nature, critical, I acknowledge the hard work that went into preparing the draft EIR/EIS and HCP. The conservation and transfer project is complicated by its great duration, its number of moving parts and participants, its geographic breadth, and its relationship to the complex ecology of the Salton Sea.

Given the number of resource issues that are concerned and the amount of uncertainty concerning implementation of conservation measures, I found the document to be well organized and generally to cover the necessary scope of resource areas. I also believe the document has presented decision-makers with a fairly broad range of alternatives to consider. The description of existing conditions paints one of the best summaries of conditions in the Imperial Valley that I have read in one place.

This letter summarizes some of the major concerns that are described in greater detail in the attached detailed comments.

#### **SUMMARY OF SELECTED KEY ISSUES IDENTIFIED IN TECHNICAL REVIEW**

##### **Baseline vs. Future "No Project" Conditions**

The California Environmental Quality Act embodies California's policy that agencies regulating the activities that affect the quality of the environment give primary consideration to "protect, rehabilitate, and enhance the environmental quality of the state." The EIR is the heart of CEQA and the integrity of the process depends on the adequacy of the EIR. The goal of an EIR is to provide decision-makers and the public with the best available analysis of the proposed project's environmental ramifications, potential mitigation measures, and feasible alternatives so that decision-makers may make informed decisions in designing and approving projects. To fully appreciate a project's impacts, CEQA contemplates that a project's impacts be measured against existing environmental conditions, not hypothetical situations. (*Save Our Peninsula Committee v. Monterey County* (2001) 87 Cal. App. 4th 99,117-122.)

**Letter - R5. Salton Sea Authority. Signatory - Tom Kirk.**

##### **Response to Comment R5-1**

Comment noted.

##### **Response to Comment R5-2**

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 9 of this Final EIR/EIS.

The Transfer EIR/EIS fails to achieve CEQA's full information goal. It significantly underestimates the projects impacts on the Salton Sea by measuring those impacts against a hypothetical degraded Sea environment predicated on reduced "baseline" inflows derived from unsupported assumptions about future conditions.

The baseline used in the document assumes an average reduction of inflows of 110 thousand acre-feet per year; this is not supported by any evidence in the document. It also accelerates the decline in value of the Sea in many resource areas and minimizes the impact the Proposed Project has in several key areas.

Additionally, the no project condition and the baseline are inappropriately conflated in the document; they are one and the same. To provide an analysis that satisfies CEQA requirements, the EIR/EIS should at the very least<sup>1</sup> provide an environmental baseline based on an extrapolation of existing environmental conditions and inflows (1.34 maf), which is distinct from, the "no project" alternative. The "no project alternative" analysis "shall discuss the existing conditions at the time the notice of preparation was published," as well as, "what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans." (CEQA Guidelines, § 15126.6, subd. (e)(2).) Ideally, the EIR/S No Project scenario would only include actions that have a final record of decision or some other conclusive environmental documentation. More speculative projects could and should be included in the cumulative impacts section.

Such an approach would provide decision-makers with a better set of comparisons on which to gauge the proposed transfer project's impacts.

#### **Irreversible and Irretrievable Effects on Salton Sea Restoration**

The discussion of Irreversible Commitment of Resources is inadequate. Under recent historic inflows or even the projected future inflow proposed in the document, the Salton Sea could be restored. Under the proposed action for the Transfer Program, the Sea would deteriorate so rapidly and severely that there is little likelihood that a Restoration program would be feasible. Annualized restoration costs escalate anywhere from \$200 to \$300 per acre-foot reduction in inflow per year. The total present value of restoration costs are about \$250 million under current inflows and about \$500 million under slightly reduced inflows. Total present value of restoration would balloon to over \$1.7 billion under the proposed transfer project. Even with this expenditure, the Sea would be considerably smaller and less vital than it is today. The impacts go beyond fiscal feasibility; the restoration becomes very difficult, and more likely impossible, technically, politically, and environmentally. The unique habitat with its life forms that are specially adapted to high saline conditions of the Sea would be lost; the food source for the millions of fish-eating birds that use the Sea as a food source would be lost.

#### **Biological Resources**

One of the Transfer Project's most troublesome impacts is the elimination of the fishery on which the Salton Sea's large and diverse bird population thrives. The EIR/EIS proposes as its

<sup>1</sup> Attached is a memorandum from the Law Office of J. William Yeates which concludes based on the most recent appellate court decisions that the EIR should utilize current conditions as the baseline for analysis. The memo is provided for IID's consideration and comment. If existing environmental conditions at the time the NOP was prepared are determined to not be the adequate baseline, the document should provide a clear and supportable rationale for using something other than the existing environment for the baseline.

#### **Response to Comment R5-3**

Refer to the Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy and Other—Relationship Between the Proposed Project and Salton Sea Restoration Project* in Section 9 of this Final EIR/EIS.

#### **Response to Comment R5-4**

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy*.



most important proposed mitigation measure a hatchery and habitat replacement project (HCP Approach 1). The EIR/EIS candidly acknowledges that there is insufficient information at this time to evaluate the effectiveness or impacts of this approach:

"Because details of Approach 1 **have not been developed to a sufficient level of detail** to conduct a project-level analysis, this approach is evaluated at a programmatic level of detail in this Draft EIR/EIS....If Approach 1 is selected for implementation for the HCP (Salton Sea Portion), **additional details would need to be developed and subsequent environmental documentation may be required to evaluate the potential impacts**" (EIR/EIS: 3.0-3.). CEQA does not permit the segmentation and deferral of environmental analysis. The EIR/EIS must provide information regarding HCP Alternative 1 in sufficient detail so that decision-makers and the public can be assured the approach would be effective in mitigating impacts to avian resources and that the approach would not itself cause additional impacts that would prove to be unacceptable or unmitigable.

#### **Air Quality**

The EIR/EIS acknowledges that the Transfer Project may cause significant air quality impacts from windblown dust from 50,000 acres of exposed bottom sediments. With prevailing winds to the south, the salt dust could have severe impacts on Imperial County, an area that already has the highest incidence of childhood asthma in California. In addition, blowing salt particles could have an adverse impact on agriculture in the Imperial Valley. The EIR/EIS does not propose any mitigation measure to address this potential significant impact (other than HCP Alternative 2, which would maintain the shoreline submerged.). This failure to consider mitigation for the windblown dust from the large exposed area is not explained. Nor is there an explanation of the project's applicability to the EPA's conformity rule, used in circumstances where a project with federal links is proposed in a nonattainment area.

Mitigation of windblown dust is likely possible, though expensive. Los Angeles has been required to mitigate the dust emissions from Owen's Lake, which the Transfer EIR/EIS claims has a much worse emission problem. The Transfer EIR/EIS should consider potential mitigation measures so that decision-makers and the public are aware of the potential costs of mitigating windblown dust.

#### **Odors**

The Transfer EIR/EIS makes no attempt to quantify the increase in objectionable odors expected from the death of flora and fauna or the increase of algae blooms. Instead, the EIR/EIS dismisses the impact by stating that, while increased odors can be expected, the impact would be insignificant because of the small number of people that would be subjected to such odors.

Approximately 140,000 live in Imperial County, and another 110,000 live in the southern portion of the Coachella Valley. In addition, as discussed below, a large number of visitors are attracted to the Salton Sea area each year. Even under current conditions, the Imperial and Coachella Valley communities are subjected to occasional offensive odors. The likelihood of increased objectionable odors is of particular concern to the communities of the Coachella Valley because of prevailing summertime winds and because the Valley's economic viability depends on maintaining its reputation as a world-class tourist destination. The EIR/EIS should at a minimum attempt to quantify the likely increase in odors so that decision-makers and the public can gauge the potential effect of this impact.

## **Letter - R5**

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### **Response to Comment R5-5**

Please refer to the following Master Responses in Section 9 of this Final EIR/EIS: *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan*; *Air Quality—Health Effects Associated with Dust Emissions*; and *Air Quality—Applicability of General Conformity Requirements to the Proposed Project or Alternatives*.

### **Response to Comment R5-6**

As stated in the Draft EIR/EIS, odors in the Salton Sea are most likely primarily associated with the effects of eutrophication. Eutrophication occurs as a result of nutrient inflows from agricultural drainage. In this process, algae production is limited by the availability of phosphorus. When the algae respire, dissolved oxygen is consumed from the Sea. Dissolved oxygen deficits are thought to be responsible for fish die-offs which contribute to odor problems at the Salton Sea. Decomposition and sulfate reduction processes are also likely contributors to odors. TMDLs for phosphates in the New and Alamo Rivers are expected to be proposed to reduce loading of phosphates in the Salton Sea. Implementation of these TMDLs could be expected to result in reduced odor occurrences. See Master Response on *Hydrology—TMDLs* in Section 9 of this Final EIR/EIS.

With the Proposed Project, implementation of the Salton Sea Habitat Conservation Strategy will maintain Baseline inflows into the Sea until about 2035. Depending on the source water used for mitigation water, the loading of phosphates could remain the same as the Baseline or be improved. After 2030, when IID's obligation to maintain salinity levels in the Salton Sea at Baseline conditions ceases, inflows to the Salton Sea will fall below Baseline levels. At that point, unless a Restoration Project has been successfully implemented, it is expected that the fishery will have ceased to reproduce and will no longer exist. Thus odors from fish die-offs will not be a factor. Also, after 2035, inflows to the Sea will be reduced, also reducing the loading of phosphorus into the Salton Sea. Although the Sea will be decreasing in size at the same the time flows are reduced, the effects of the implementation of the TMDLs could result in an improved condition in terms of the loading of TMDLs in relationship to the amount of water in the Sea.

Given the complexity of the interrelationship of phosphate inputs, water quantity and water quality, it is not possible to quantify a change in odor that could be expected from implementation of the Project. However, compared to the existing condition and projected ongoing eutrophication conditions at the Salton Sea, the effects of the Proposed Project on odors is expected to be less than significant, as stated in the Draft EIR/EIS.

### Recreational Resources

The EIR/EIS notes that annual recreational visitation to the Salton Sea has been estimated as high as 750,000 persons per year, of which 400,000 come specifically for fishing. For example, in 1999-2000, nearly 240,000 people visited the Salton Sea Recreation Area. The EIR/EIS acknowledges that the impact on sport fishing would be significant but concludes that the impact on other recreational activities would be less than significant.

The EIR/EIS concludes that relocating the campgrounds to the water's edge as the Sea's level decreases can mitigate impacts to campgrounds. It is unlikely that the state park system would have sufficient resources to fund the reconstruction of its campgrounds and the revegetation and landscaping that would be necessary to provide a minimally acceptable camping experience. It is even more unlikely that campers would choose to camp on barren exposed playas next to an increasingly stinky dying Sea.

Similarly, relocating boat-launching facilities would not mitigate the impact on recreational use of the Sea. Boaters are unlikely to brave the difficult conditions and expose their equipment to the super-saline conditions to cruise a Sea devoid of fish and birds. The EIR/EIS needs to acknowledge that the Transfer Project would cause a significant decline of recreational use of the Salton Sea.

### Aesthetics

One of the most endearing aspects of the Salton Sea is the dramatic views of the large expanse of water, with the high mountains as a backdrop and accentuated with flocks of white pelicans and other migratory birds. These views are appreciated by persons passing along highways 86 and 111, by local residents, and by visitors to recreational facilities.

The EIR/EIS concludes that, notwithstanding the significant reduction of the size of the Sea, the aesthetic impact would be less than significant and could be mitigated by relocating recreational facilities to the new shoreline.

To the contrary, the aesthetic impact of the Sea's reduction and withdrawal from current shorelines by at least one and perhaps as much as five miles cannot be mitigated. The dramatic effect of the Sea's vista would be largely lost to residents and highway travelers due to the distance that they would be from the Sea. The foreground of the current picturesque landscapes would be transformed into barren exposed playas. To suggest that the impact would be mitigated by relocating the recreational facilities is equivalent to suggesting that the impact to San Diego of the withdrawal of the Pacific Ocean a mile from its current shoreline could be fully mitigated by relocating a pier or two to the new shoreline; it cannot be done. The aesthetic impact is significant and unmitigable, unless following is used, as indicated by HCP Number 2, such that the impact does not occur in the first place.

### Environmental Justice

The document seriously understates the environmental justice (EJ) impacts. The benefits of the project are largely realized in the more affluent San Diego County, whereas the majority of the most significant adverse impacts would be felt in Imperial County and the eastern Coachella Valley. The greatest intensity of the impacts would be felt in the communities immediately adjacent to the Salton Sea. The residents of these communities are primarily lower income households, many of retirement age. Of special note is the lack of analysis and consideration of impacts on the Torres Martinez Desert Cahuilla Tribe and their trust assets. The Torres Martinez

### Response to Comment R5-7

Please refer to the Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS. With implementation of HCP Approach 2 (now referred to as Salton Sea Habitat Conservation Strategy), no impacts to recreation would occur to recreation facilities until at least the year 2030. Impacts to sport fishing will be avoided, and thus impacts to recreation use that is driven by sport fishing will also be avoided. Mitigation measures recommended by the EIR/EIS, such as relocation of campsites, would be the responsibility of IID, not the State Parks, and thus would be funded.

### Response to Comment R5-8

Please refer to the Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS. With implementation of this approach, the final elevation at the end of the Project term is expected to be about -240 ft msl. The impacts to aesthetics of this elevation were reasonably represented on the visual simulations in the Draft EIR/EIS shown for Alternative 4. (For Alternative 4 the projected elevation was approximately -241 ft msl, so the Sea would be expected to be slightly larger than shown on those simulations.)

### Response to Comment R5-9

The Salton Sea Habitat Conservation Strategy is designed to avoid significant impacts in the Salton Sea subregion. Under this approach, water conserved to mitigate Salton Sea impacts could be generated through any combination of water conservation measures, including fallowing. The quality of water discharged to the Salton Sea under the Salton Sea Habitat Conservation Strategy would be similar to or improved relative to the water that is currently discharged to the Sea. For additional information, refer to the following Master Responses in Section 9 in this Final EIR/EIS: *Hydrology—Selenium Mitigation and Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan*. Also, for additional information on Project-related impacts to the Salton Sea, refer to the Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 in this Final EIR/EIS.

Please also note that the Indian Trust Assets and Environmental Justice sections (Sections 3.9 and 3.15 of the Draft EIR/EIS, respectively) have been revised to address this comment and other comments on these sections. The new sections are located in this Final EIR/EIS in Sections 3.9 and 3.15.



## Letter - R5

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### Response to Comment R5-10

Refer to the Master Response on *Other—Relationship Between the Proposed Project and the Salton Sea Restoration Project* in Section 9 of this Final EIR/EIS.

### Response to Comment R5-11

Comment noted.

### Response to Comment R5-12

Refer to the Master Response on *Other—Relationship Between the Proposed Project and the Salton Sea Restoration Project* in Section 9 of this Final EIR/EIS.

R5-9

Tribe is one of the largest landowners of the seabed and is faced with challenging economic conditions. The impacts to the tribe and other seaside communities would include the most intense air quality impacts and death of the fishery, not 25 to 60 years in the future but within the lifetime of the present residents. Other impacts would be odors from exposed sediments and dying fish, impacts to recreation, and impacts to the visual landscape. Additionally, the analysis assumes that all transfer revenue, beyond IID costs, go to the farmer and none to the community at-large. This may have EJ implications, and mitigation or alternatives to the assumed distribution of nearly all revenues to farmers should be considered. Generally, the EJ impacts should be considered adverse and very significant. Specific mitigation measures should be included.

#### **Cumulative Impacts**

R5-10

The discussion of cumulative impacts is inadequate. The EIS/EIR provides little discussion of the cumulative impacts of the Transfer Project with the Salton Sea Restoration Project. The document states that discussion of cumulative impacts would be speculative, yet significant coordination between the restoration team with the transfer team has been conducted information has been transferred, and briefings have been given about restoration alternatives. The IID even provided a copy of the Salton Sea Restoration Project Draft Alternatives Report to the State Water Resources Control Board, as part of its testimony on the project. In addition, a draft EIS/EIR was published in 2000.

#### **Mitigation Measures**

R5-11

CEQA requires that project impacts be mitigated to the extent possible by the implementing feasible mitigation measures. An EIR/EIS should describe mitigation measures with a sufficient level of specificity to gauge their efficacy in mitigating impacts and to gauge the environmental impacts that the mitigation measures themselves may have (CEQA Guideline 15126.4.).

#### **Summary**

R5-12

The EIR/EIS misleads decision-makers to believe that the proposed Transfer Project would merely hasten the Sea's inevitable demise; that the project's impacts are minimal and mitigable. The EIR/EIS fails to consider the effect of the Transfer Project on feasible restoration projects, against which the Transfer's Project's impacts are shown to be what they are: catastrophic.

Sincerely,

Tom Kirk  
Executive Director

**IID Water Conservation and Transfer/Draft HCP Draft EIR/EIS  
Draft Technical Review Comments Prepared by the Salton Sea Authority  
April 26, 2002**

Letter - R5  
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Com No.	Page Number	Figure, or Table No.	Comment
R5-13	General	Baseline/ CEQA and Legal Aspects	Environmental impacts of the proposed project are significantly underestimated because project impacts are measured against baseline environmental projections that incorrectly assume roughly a 110,000-acre foot per year (AFY) reduction in baseline inflows to the Salton Sea.
			The California Environmental Quality Act (CEQA) requires that an environmental impact report (EIR) describe existing environmental conditions as a "baseline" against which project impacts can be measured. The baseline must describe "real conditions on the ground" and not "hypothetical situations." Baseline cannot be established based on unsubstantiated opinion and narratives or bare representations by parties with a vested interest in establishing a baseline to facilitate project approval ( <i>Save Peninsula Committee v. Monterey County</i> (2001) 87 Cal.App. 4th 99,121-122).
			The Draft EIR/EIS impact analysis is predicated on baseline inflows to the Salton Sea that are roughly 110,000 AFY below recent historical averages. Based on the assumption of reduced future inflows, the EIR/EIS project's baseline environmental conditions of salinity and Sea level that are significantly worse than those that would exist under maintenance of current inflow conditions. Project impacts have been significantly underestimated because they are measured against the degraded baseline projection. As indicated in the accompanying legal memo, the baseline should be present conditions; projected future conditions should be used to evaluate the impacts of no action, and project impacts should be considered in combination with the "no project" impacts.
R5-14	General	Adequacy of projected "no project" condition (identified incorrectly as baseline in the IID EIS/EIR)	The EIR/EIS does not contain adequate evidence to justify the 110,000-acre-foot reduction of future inflows.
			The draft EIR/EIS projects the following reduction of future inflows, compared with current conditions: <ul style="list-style-type: none"> <li>• Reduction due to "entitlement enforcement": 56,856;</li> <li>• Imperial Irrigation District-Metropolitan Water District Transfer Agreement Number 1; and</li> <li>• Reduced inflows from the Coachella Valley Water District (CVWD) due to increased infiltration and other reductions.</li> </ul> <p>There is no evidence or documentation provided to support any of these reductions.</p>
R5-15	General	Future "No Project" Inflows/ Entitlement Enforcement	The projected future inflow for the "no project" alternative, as shown in the document, has a severe impact on the Salton Sea. Although the effects of the proposed action on the Sea, when compared to this projected future inflow, are shown to be very severe, they would actually be more severe if they were compared to current conditions because it is appropriate that they be in a CEQA analysis. The document does not clearly lay out how the future inflow was achieved. Therefore, it is difficult to assess whether the projected future inflow calculations are reasonable or the calculations of impacts as compared to that projected future inflow. A more complete description of the components of the projected future inflow should be added to the main body of the document. This description should particularly discuss those components that affect the Salton Sea, such as the "inflow reduction due to entitlement enforcement."
			Under the Seven Party Agreement, the agricultural district (Palo Verde Irrigation

**Response to Comment R5-13**

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 9 of this Final EIR/EIS.

**Response to Comment R5-14**

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 9 of this Final EIR/EIS.

**Response to Comment R5-15**

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 9 of this Final EIR/EIS. Any effect to the way that entitlement enforcement was modeled, of the potential of MWD to provide 50 KAF to CVWD as available under 1989 Approval Agreement, is likely to be minimal.

Com No.	Page Number	Figure, or Table No.	Comment
			<p>District, Imperial Irrigation District, Coachella Valley Water District, and the Yuma project) are limited to a combined total of 3.85 million acre-feet annually. Actual average consumption by these districts has been described as closer to 3.91 million acre-feet. This use of additional water by the agricultural districts presumably has been allowed because other lower basin states have not used their full entitlements and surplus water conditions have existed.</p> <p>In projecting the "entitlement enforcement" reductions of inflow, the EIR/EIS assumes, without supporting analysis, that it is inevitable that consumption by IID or CVWD will be reduced by the amount necessary to bring the agricultural districts within the 3.85 entitlement and that the consequent reduction in IID or CVWD consumption will result in a nearly equal reduction of inflows to the Salton Sea. Neither assumption is supported by the required analysis or documentation.</p> <p>The allocation of the 3.85 entitlement among the individual agricultural districts has been the subject of considerable controversy over a number of years. No one can predict with any level of certainty what quantity of water IID and CVWD would be entitled to consume if the water transfer/QSA failed. Also, surplus and flood flows will continue to periodically exist on the Colorado River and would likely be available to the districts. The allocation of surplus flows among the various entities that hold surplus water contracts would be the subject of considerable negotiation and controversy, the outcome of which is unpredictable. Consequently, any assumption regarding the existence or amount of "entitlement enforcement" is hypothetical, not reflective of the current "existing conditions on the ground" and inappropriate to include in a future inflow analysis.</p> <p>Furthermore, even if IID or CVWD were required to diminish their consumption by 56,856 AFY, that reduction may not be likely to result in an equivalent reduction in inflows to the Sea. Currently, about one-third of the water diverted by IID and CVWD and used for irrigation makes its way into the Salton Sea. The evapotranspiration process consumes the other two-thirds of the water. So even if IID and CVWD were required to reduce consumption, the impact on the Sea may be only a fraction of reduced consumption.</p> <p>The value of 56,856 AFY is provided as a constant reduction factor that is applied every year in the future to reduce the inflow to the Sea. A footnote on the table in the hydrology appendix indicates that this constant value was provided by IID. The calculations to support this value should be included in the appendix. Is it the average of the past overages or is it a net average of the over and under amounts? The latter would be a smaller amount and would have less impact on the Sea.</p> <p>How would the inflow reduction due to entitlement enforcement be implemented? Who would be responsible and how would it be enforced? Is it related to some specific conservation project or projects? If it is related to some projects, then perhaps it should more appropriately be included as a project impact. If it is a result of projects that have been evaluated in other documents, then those documents should be cited and incorporated by reference.</p> <p>Additionally, as the Draft Environmental Impact Statement for the Implementation Agreement, Inadvertent Overrun and Payback Policy and Related Federal Actions states on pages 12 and 13 of Appendix C, "Currently, there is no specific quantification of the rights of each of the above-named irrigation districts. In any given year, the depletions by each of these agencies will vary, with the only restriction being that the total use by the four districts cannot exceed the 3.85 million acre-feet per year (MAFY) cap in a normal year. An exception to this occurs under surplus</p>



### Response to Comment R5-16

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 9 of this Final EIR/EIS.

### Response to Comment R5-17

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 9 of this Final EIR/EIS.

### Response to Comment R5-18

Under the Drain Habitat Conservation Strategy (DHCS), managed marsh would be created in 3 phases and could take up to 15 years to have in place. Creation of managed marsh addresses potential impacts of IID's covered activities on covered species using drain habitat, not effects to covered species at the Salton Sea. The primary potential impact to covered species in the drains relate to IID's O&M activities rather than effects attributable to water conservation (see Section 3.5 of the HCP). To the extent that species have colonized and use drain habitats, they have done so coincident with IID's O&M activities that have been ongoing for nearly 100 years. Water conservation could affect some species through changes in water quality and small changes in plant species composition. Any such changes would occur gradually over a period of about 20 years as the water conservation and transfer program ramps up; this is about the same temporal scale over which the managed marsh would be created.

The DHCS contained in the Draft HCP specified that the managed marsh would be created and managed in the same manner as units for Yuma clapper rails are managed on the state and federal wildlife refuges. The DHCS has been revised such that Yuma clapper rails are no longer the primary focus. As explained in the revised HCP, the first phase of the creation of managed marsh habitat is likely to be similar to units for Yuma clapper rails on the state and federal refuges because this species is known to inhabit some of the drains and the units managed for clapper rails on the refuges have been shown to consistently attract and support clapper rails (See Appendix A of the HCP for survey results). In designing the second and third phases of the managed marsh habitat, results of surveys for covered species using the drains will be available and IID and the HCP Implementation Team (IT) will be able to make adjustments in the design of the managed marsh as necessary to accommodate species found using

Com No.	Page Number	Figure, or Table No.	Comment
			<p>determinations by the Secretary. The 1989 Approval Agreement among IID, CVWD, PVID, and MWD amended the 3.85 MAF cap by allowing MWD to access up to 110 thousand acre-feet/year (KAFY) of water conserved under the 1988 MWD/IID agreement, <b>provided that under certain specified conditions, CVWD would be given the right to use the first 50 KAF."</b></p> <p>Those conditions are described under sections 3.1 and 3.2 in the 1989 approval agreement. The agreement describes those conditions: When the Secretary requires the agricultural agencies to reduce their diversions because they have exceeded the 3.85 MAFY (including the amount conserved and used by MWD). As the junior right holder of the four agricultural agencies that share the 3.85 MAFY, CVWD presumably included this provision in the subject agreement to guarantee its continued historic use of Colorado River water. Consequently, the no project scenario may conclude that 52 KAF or 59 KAF or a similar amount may be over the agricultural entitlement and subject to enforcement (provided documentation is included as described in other comments and above). If this amount would be reduced from CVWD, the analysis should also assume that CVWD would exercise the clause in the 1989 Approval Agreement that has MWD providing the "first increment of agricultural reduction required by the Secretary" of up to 50 KAF. This would seem to indicate that there would be either no net loss or a very small reduction in water delivered to IID and CVWD under "entitlement enforcement." Additionally, some of the additional negative impacts of reduced flows to CVWD might be avoided if CVWD were able to maintain its historic average use of Colorado River supply (although this is difficult to assess because no documentation of assumptions is provided for the CVWD contributions of inflow to the Sea and because the CVWD water management EIR is not available for public review).</p>
R5-15			
R5-16	4.	General	<p>Future "No Project" Inflows / IID-MWD Transfer Number 1</p> <p>IID-MWD Transfer Agreement 1 has a term of 35 years from the last conservation action, so its term would end in the later part 2020s. This could make more water available to the Sea during the last 45 or so years of the 75-year life of the new transfer project. The term of the agreement and its impact on the Sea should be evaluated under the no project alternative.</p>
R5-17	5.	General	<p>Future "No Project" Inflows / Other Reductions</p> <p>The other reductions are not supported by any evidence or analysis in the EIR/EIS. In projecting other reductions in future inflow inflows to the Sea, the EIR/EIS relies on numbers supplied by CVWD and IID. The document does not include supporting documentation or analysis for any of these numbers. As noted above, such information supplied by parties that have a vested interest in the project's implementation should not be accepted without supporting documentation.</p>
R5-18	6.	General	<p>Biological Resources</p> <p>The draft EIR/EIS fails to adequately address how wildlife will be able to respond to an accelerated decline of conditions at the Sea. The draft EIR/EIS assumes that the proposed habitat conservation plans (which may take up to 15 years to enact) will protect bird populations on the same temporal scale that the proposed water transfer will affect species; however, this may not be the case, and the proposed plan offers no details. It also assumes that mitigation projects will do what they are designed to do (for instance, created marshes will attract the same species being affected by water diversions), yet this is another undocumented assumption. For instance, there is reason to believe that black rails will not respond to the proposed marsh construction plans (see comments below).</p> <p>In a number of places, the draft EIR/EIS assumes that the conditions at the Salton Sea created by the accelerated impacts of the proposed water transfer will not have significantly different effects on wildlife at the Salton Sea, compared to a no action alternative, yet this is also undocumented. Given the documented international importance of the Salton Sea and its surrounding lands, particularly to birds (Shuford et al. 2000, Patten et al. in press, Shuford et al. in press), the number of untested</p>



**Response to Comment R5-18 (continued)**

the drains. Current information suggests very little, if any, use of the drains by California black rail. If surveys conducted under the HCP show greater use of the drains by California black rails, this species specific habitat needs will be incorporated into the design and management of the managed marsh.

The HCP has been revised to include a more detailed monitoring and adaptive management program (see Appendix C of this Final EIR/EIS). For the DHCS, IID will monitor vegetation and species use of the managed marsh. The HCP IT will annually review the monitoring data and will have the discretion to make adjustments in management of the managed marsh to improve habitat for the covered species. Thus, if a particular species is not found to be using the managed marsh and there is reason to believe that management changes will attract the species, the HCP IT can recommend adjustments and IID will implement them. Additional discussion of the monitoring and adaptive management program for the DHCS is provided in Chapter 4.3 of the HCP.

Also see Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy*.

Com No.	Page Number	Figure, or Table No.	Comment
R5-18			assumptions that this document relies on to justify no significant impact conclusions is troubling.
R5-19	7.	General Biological Resources	The impact analysis fails to provide adequate discussion and delineation between short-term and long-term impacts. This is especially pronounced for biological resources because implementing the HCP and getting the measures fully functional will require more time than when water will begin to be transferred. Thus, while some long-term impacts would be mitigated, there may be short-term impacts that are unavoidable and significant. This must be acknowledged.  Likewise, the impact analysis does not distinguish between direct and indirect impacts. There are many indirect connections that influence the ecological conditions of the Sea.
R5-20	8.	General Biological Resources	Many of the impact discussions use Mono Lake and the Great Salt Lake as models to assess the magnitude and intensity of impacts. While intuitively this may make sense, it is not accurate for the following reasons:  1. Neither Mono Lake nor the Great Salt Lake has the same evolution or history as the Sea;  2. The types of species and the ways they use these three waterbodies are very different (e.g., composition, distribution, timing, and life-cycle factors);  3. The Salton Sea is a much more complex system, so we cannot assume that it will evolve into the same system a Mono Lake or the Great Salt Lake.
R5-21	9.	General Visual	The document indicates that visual impacts will not be significant, yet the visual simulations show dramatic changes in the shoreline locations and large expanses of exposed sediments. These areas would be visible to residents and to motorists along the major highways that surround the Sea, highways 111 and 86. These impacts should be classified as significant. By way of comparison, we believe that if this project were to cause a 20-foot drop in Mission Bay in San Diego, such that the bay essentially were reduced back to a mudflat, as it was before the bay was dredged, then that would be considered a significant visual impact. A similar impact should be considered significant in Riverside and Imperial counties.
R5-22	10.	General Air Quality	The document states that air quality dust effects from exposed sediments could be significant. However, the document also states that these impacts are not mitigable. The Salton Sea is already in a nonattainment status for PM <sub>10</sub> . The experience at Owens Lake demonstrates that mitigation measures are available and necessary, but they come with a very high price tag. See the comment number 15 on mitigation below.
R5-23	11.	General Environmental Justice	The document seriously understates the EJ impacts. The benefits of the project are largely realized in the more affluent San Diego County, whereas the majority of the most significant adverse impacts will be felt in Imperial County. The greatest intensity of those impacts will be felt in the communities immediately adjacent to the Salton Sea, whose residents of these communities are primarily lower income families of retirement age. The impacts to these communities will experience, for example, the most intense air quality impacts, odors from exposed sediments and dying fish, recreational impacts, visual impacts, and death of the fishery, which will come within the residents' lifetimes. The impacts on the Torres Martinez Desert Cahuilla Tribe should be specifically evaluated and addressed. The EJ impacts should be considered adverse and very significant. Mitigation measures should be included, and specific measures should be proposed.
R5-24	12.	General Irreversible and Irretrievable Commit-	The discussion of irreversible commitment of resources is inadequate. Under recent historic inflows or even the projected future inflow proposed in the document, the Salton Sea could be restored. Under the proposed action for the transfer program, the Sea would deteriorate so rapidly and severely that there is little likelihood that a restoration program would be feasible. The unique habitat with its life forms that are

### Response to Comment R5-19

The Draft EIR/EIS evaluates the impacts of the Proposed Project in accordance with CEQA and NEPA requirements. Short-term impacts typically relate to construction. Short-term impacts potentially resulting from construction are evaluated under Impacts BR-14, -15, -16, -18, -25, -30, and -31. The mitigation measures of the HCP account for the temporal aspects of mitigation habitats becoming fully functional. For example, see the response given for Comment R5-18.

### Response to Comment R5-20

While there are several references to both Mono Lake and the Great Salt Lake in the discussion of potential impacts to biological resources in the Salton Sea, these two lakes are not used as models to assess the magnitude and intensity of impacts. The magnitude and intensity of impacts to the biological resources of the Salton Sea are analyzed with respect to the current level of salinity using predicted changes in the species composition at the Sea based on the salinity tolerances of the current species mix and predicted changes in salinity. It is true that Mono Lake and the Great Salt Lake are different from the Salton Sea in their evolutionary history, species composition, and complexity, but the endpoint of highly saline lakes such as these is remarkably similar as only a limited number of organisms can tolerate extremely high salinities. They are presented as examples of what the fauna of the Sea would potentially look like when salinity of the Sea increases to a point nearly double the current level and most, if not all, fish production has ceased.

### Response to Comment R5-21

Please refer to the Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS. With implementation of this approach, the final elevation at the end of the Project term is expected to be about -240 ft msl. The impacts to aesthetics of this elevation were reasonably represented on the visual simulations in the Draft EIR/EIS shown for Alternative 4. (For Alternative 4 the projected elevation was approximately -241 ft msl, so the Sea would be expected to be slightly larger than shown on those simulations.)



#### **Response to Comment R5-22**

Please refer to the Master Response on *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan* in Section 9 of this Final EIR/EIS.

#### **Response to Comment R5-23**

Refer to responses to comments R5-120, 121, and 123. No mitigation measures have been proposed.

#### **Response to Comment R5-24**

Section 5.6.2, Irreversible Commitments of Resources, in the Draft EIR/EIS recognizes that the primary area that would experience the most likely irreversible change is the Salton Sea and the lands adjacent to the Sea. With implementation of the water conservation and transfer component of the Proposed Project and/or alternatives, the surface elevation of the Sea would decrease and salinity would increase more rapidly than under the No Project Alternative after 2030. Such environmental effects would adversely affect the environmental resources associated with the Salton Sea irreversibly. For additional information on the relationship between the Proposed Project and the Salton Sea Restoration Project, refer to the Master Response of that same title. The comment makes the unsupported assertion that the Proposed Project would cause the Salton Sea to deteriorate so rapidly and severely that the restoration project would become infeasible. This ignores the fact that the recent Restoration Planning Update reports that under the current salinity trend (without projects), fishing collapse will begin as early as 2015. It also plans to assume that the entire maximum amount of transfer of 300 KAFY will begin immediately. In fact, the transfer quantitatively ramp up. Refer to Section 2.2.4.1 of the Draft EIR/EIS for a detailed explanation.

R5-24

R5-25

R5-26

R5-27

R5-28

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		ment of Resources	ment of Resources specially adapted to high saline conditions of the Sea would be lost. The food source for the millions of fish-eating birds that use the Sea as a food source would be lost. The Salton Sea Authority's testimony and exhibits to the State Water Resources Control Board hearings on the transfer of water provide much of the detail on the potential for irreversible commitment of resources. Further discussion of this point is provided in comment number 116 related to page 5-49.
13.	General	Odors	The transfer EIR/EIS makes no attempt to quantify the increase in objectionable odors expected due to the death of flora and fauna or the increase of algae blooms. Instead, the EIR/EIS dismisses the impact by stating that, while increased odors can be expected, the impact would be insignificant because of the small number of people that would be subjected to such odors.  Approximately 140,000 live in Imperial County, and 300,000 live in the Coachella Valley. In addition, as discussed below, a large number of visitors are attracted to the Salton Sea area each year. Even under current conditions, the Imperial and Coachella Valley communities are subjected to occasional offensive odors. In fact, complaints of odors have come from as far away as Yuma, Arizona, 29 Palms, and Moreno Valley. The likelihood of increased objectionable odors is of particular concern to the communities of the Coachella Valley whose economic viability depends on maintaining its reputation as a world-class tourist destination. The EIR/EIS should at a minimum attempt to quantify the likely increase in odors so that decision-makers and the public can gauge the potential effect of this impact.
14.	General	Cumulative Impacts	The discussion of cumulative impacts is inadequate. The EIS/EIR provides little discussion of the cumulative impacts of the transfer project with the Salton Sea restoration project. Significant coordination with the transfer team has been conducted, along with information transfer and briefings about restoration alternatives. The IID even provided a copy of the Salton Sea Restoration Project Draft Alternatives Report to the State Water Resources Control Board as part of its testimony related to the project. In addition, a draft EIS/EIR was published in 2000. Yet, the document states that discussion of cumulative impacts would be speculative.
15.	General	Mitigation	The proposed action would have environmental consequences for almost all aspects of the human environment around the Salton Sea, including virtually all natural and social resources. Even compared to the future inflow, the proposed action would cause a drop of about 15 feet or more in water surface elevation and exposure of about 80 square miles of sediments. The EIR/EIS admits that this would have significant impacts on air quality but states that they cannot be mitigated. It would also result in loss of all current shallow water foraging habitat, including the large shallow water habitat at the south end of the Sea, and loss of the fishery in about 10 or 12 years. While other shallow water habitat would be established at the lower elevation, it would be much smaller. There would be visual impacts, recreation impacts, and socioeconomic impacts.  No measures have been proposed that would adequately mitigate the full spectrum of impacts expected at the Sea, yet measures are available. The EIR/EIS states that the air impacts cannot be mitigated, but at Owens Lake similar impacts are being mitigated By installing a wetting system. To date, \$100 million has been spent on mitigation, and the cost of full implementation of this system is estimated at \$400 million. In addition, the program will require several million dollars per year in Operations, Maintenance, Energy and Replacement (OMER) costs and a 25,000-acre-foot per year water requirement. This system is being used to control dust on an area that covers only a small portion of the 100 square miles exposed at Owens Lake. This is equivalent to the total area that would be exposed at the Salton Sea when the projected future inflow effects are included. By simple scaling, if a larger proportion of the total exposed area at the Sea would need to be mitigated, the cost could be substantially more costly than the program at Owens Lake.

### Response to Comment R5-25

See response to Comment R5-6.

### Response to Comment R5-26

Refer to the Master Response on *Other—Relationship Between the Proposed Project and the Salton Sea Restoration Project* in Section 9 of this Final EIR/EIS.

### Response to Comment R5-27

Without a specific reference to a part of the Draft EIR/EIS, this comment is too general to respond to. Comment noted.

### Response to Comment R5-28

Please refer to the Master Response on *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan* in Section 9 of this Final EIR/EIS.



Com No.	Page Number	Figure, or Table No.	Comment
R5-29			The air quality mitigation measures mentioned above would not mitigate the full spectrum of impacts that would occur at the Sea. Elevation changes at the Sea could be mitigated by constructing in-Sea diking systems. These are discussed in a report by the Salton Sea Authority entitled, "Assessment of Salinity and Elevation Control." A diking system that would have a total enclosed area of 80 square miles would mitigate a loss of inflow of 300,000 acre-feet. The cost model presented in the report suggests that an in-Sea diking system of this size would have a total present value of about \$2.4 billion. The costs are high because for a system of this size, much of the construction would have to be in water depths of 20 to 25 feet or more. While such a system would mitigate most of the impact of the transfer, it would have its own impacts, which would need to be assessed.
R5-30			Mitigation by fallowing could be accomplished in such a way that virtually all significant natural resource impacts to the Sea could be eliminated; however, there would be socioeconomic impacts that would need to be addressed.
R5-31			The Appendices are not listed in the TOC, making it difficult to find individual items in them. For example, Appendix F contains four distinct items. An expanded TOC should be provided, listing the titles of each of the items in the appendices.
R5-32	16.	TOC	Appendices
R5-33	17.	ES-3	The region of influence (ROI) should be expanded and better defined. The document identifies the ROI to include the Salton Sea and its shoreline back to 0.5 foot around the Sea. This definition seems inconsistent with the discussions in Chapter 3 and the HCP. If the ROI truly is only 0.5 foot from the waterline, it is inadequate to fully assess impacts to shoreline habitat and vegetation. Hydrophytic and facultative plants depend on shallow groundwater, which in turn, is influenced by the Sea elevation. Such plants can extend a great distance from the watermark of the Sea. Any drawdown of the Sea would affect not only those plants 0.5 foot from the watermark, but all plants connected with the groundwater. Likewise, the groundwater supports mudflats and moist soils in some areas around the Sea, and this habitat supports insects and birds. The ROI should be enlarged to fully capture biological impacts. It appears that much of the HCP and document (e.g., Figure 3.2-8) recognize the importance of surrounding lands.
R5-34	18.	ES-3, 2-42, & HCP	The HCP does not provide a good definition of what area is included for the Salton Sea, and the map is at such a scale that one cannot infer the area. How much shoreline is included? If it is 0.5 foot, it is inadequate (see comment above).
R5-35	19.	ES-3 & 2-42	The HCP recognizes five main habitats, one of which is the Salton Sea. While it is important to simplify the approach for readability, the distinct habitat types at the Sea, as discussed in the HCP, should be presented.
R5-36	20.	ES-7	USFWS's Purpose and Need: Not sure why this is included. The text focuses on USFWS's role with ESA compliance, but this is not a "purpose of" nor a "need for" the project. If there is no project, then USFWS has no need for the HCP. The USFWS is not an advocate nor beneficiary of the project. It may have a NEPA-related purpose and need, given that it is a coop agency and that it administers lands that might be affected by the proposed action, but this discussion is silent on those issues. Recommend deleting or moving to the HCP.
R5-37	21.	Table ES-1	The approach in this table is inconsistent. The title is Summary of Significant Impacts and Mitigation. Some resources sections properly address both significant impacts and mitigation, but others do not list any significant impacts (assuming mitigation would be implemented). For example, Section 3.2 Biological Resources "No significant impacts (after mitigation)." To understand the impacts on a temporal scale, there should be a discussion of significant impacts, followed by the mitigation, then a reevaluation of the impacts if mitigation were applied. Thus, Section 3.2 in the table should list all significant impacts, followed by mitigation as related to the specific impact (e.g., habitat modification for candidate, sensitive, or special status species would occur and is a significant impact per Section 3.2.4.2 Significance Criteria, the

### Response to Comment R5-29

Please refer to the Master Response on *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan* in Section 9 of this Final EIR/EIS.

### Response to Comment R5-30

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy*.

### Response to Comment R5-31

The socioeconomic impacts of fallowing are described in Section 3.14 of the Draft EIR/EIS.

### Response to Comment R5-32

The suggested changes have been made and are reflected in the Executive Summary Section 2, of this Final EIR/EIS.

### Response to Comment R5-33

Section 1.0 of the Draft EIR/EIS recognizes that the region of influence within each subregion could vary depending on the environmental resource being considered. If the geographic subregion for a particular environmental resource area differs from that shown in Figure 1-1, the modified subregions and the rationale for the modification are described in the environmental setting section for the specific environmental resource area or in the HCP.

### Response to Comment R5-34

The HCP covers the effects of Project-induced changes at the Salton Sea on covered species. These include the potential impacts of accelerated decline in water surface elevation and increases in salinity. These impacts could extend to adjacent vegetation above the existing shoreline. Therefore, the area covered by the HCP includes the entire shoreline and adjacent vegetation supported by the current elevation of the Sea.

#### **Response to Comment R5-35**

The comment refers to the Executive Summary. It is not appropriate for the summary to include the full level of detail as the rest of the EIR/EIS. The classification and description of habitats of the Project Area in the EIR/EIS are sufficient to support the impact analysis.

#### **Response to Comment R5-36**

Comment noted.

#### **Response to Comment R5-37**

Table ES-1, "Summary of Significant Impacts and Mitigation Measures," of the Draft EIR/EIS has been revised. This change is indicated in this Final EIR/EIS in the Executive Summary. In addition, the comment is incorrect regarding Impacts BR-46 and BR-51 in Chapter 3. Impact BR-46 is considered a significant, but avoidable, impact of the water conservation and transfer component of the Proposed Project. Implementation of the HCP component of the Proposed Project would reduce this impact to less than significant. Impact BR-51 is a potentially significant impact of the water conservation and transfer component of the Proposed Project. However, implementation of the HCP component of the Proposed Project would reduce this impact to less than significant.



R5-37

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			mitigation would be ???). Note: Impact BR-46 and BR-51 are determined to be significant and unavoidable in Chap. 3.
22.	ES-18	Table ES-1	3.2 Biological Resources states that no significant impacts were identified. However, impacts R-8 and R-9 (listed later in the same table) identify recreation impacts that are directly related to adverse impacts to fish and birds. This is an inconsistent approach.
23.	2-49 & HCP		<p>The HCP recognizes that there are 25 species with insufficient information to develop a conservation strategy. A research program is proposed to better study these species and to develop conservation measures. No timeline is provided as to when the research program would have enough information to develop these measures. Such a timeline should be provided, and no action should be taken that could impair these species. Given that over 40,000 hours went into preparing the draft EIS/EIR, additional time to ensure the protection of these species seems reasonable.</p> <p>The discussion of mitigation measures for impacts to the 25 species is not adequate. The response to question 19 in the CEQ's <i>Forty Most Asked Questions</i> provides guidance on the level of discussion that should be included. "The mitigation measures discussed in an EIS must cover the range of impacts of the proposal. The measures must include such things as design alternatives that would decrease pollution emissions, construction impacts, aesthetic intrusion, as well as relocation assistance, possible land use controls that could be enacted, and other possible efforts. Mitigation measures must be considered even for impacts that by themselves would not be considered 'significant.' Once the proposal itself is considered as a whole to have significant effects, all of its specific effects on the environment (whether or not 'significant') must be considered, and mitigation measures must be developed where it is feasible to do so. All relevant, reasonable mitigation measures that could improve the project are to be identified, even if they are outside the jurisdiction of the lead agency or the cooperating agencies, and thus would not be committed as part of the RODs of these agencies. Sections 1502.16(h), 1505.2(c). This will serve to [46 FR 18032] alert agencies or officials who can implement these extra measures, and will encourage them to do so. Because the EIS is the most comprehensive environmental document, it is an ideal vehicle in which to lay out not only the full range of environmental impacts but also the full spectrum of appropriate mitigation."</p>
24.	2-49		IID states that the level of mitigation should be scaled to the impact attributable to the water conservation and transfer program, but how this scale is determined or will be determined is not provided. In many instances, the impact analysis does not provide enough quantification on which to assess scale. Likewise, the trends in projected future inflow conditions are never clearly provided, which might serve as a proxy to measure changes related to the project vs. no project.
25.	2-52		The technical and legal mechanisms for using conserved water as mitigation under HCP Approach #1 should be described.
26.	2-50 and HCP		Last paragraph states, "The purpose of these ponds would be to maintain some foraging opportunities at the Salton Sea...." "Some" needs to be defined. What are the targets?
27.	2-50 and HCP p. 3-25		HCP Approach 1: "The objective of creating ponds would be to maintain a level of foraging habitat that would help ensure that piscivorous birds would continue to be represented at the Salton Sea." Given that some of the birds are federally protected, it seems that the goal should not be just "representation" but to maintain a viable population. No discussion is provided on what would constitute a viable population. It is hard to assess the effectiveness of the mitigation to meet ESA requirements without such an assessment.
28.	2-50 & 51 and HCP		HCP Approach 1 proposes to develop 5,000 acres of five-foot deep ponds. There is no evidence presented to suggest that this would be a benefit to the affected species. Trying to consolidate the ecological output of the 235,000-acre (365-square-mile) Sea

R5-38

R5-39

R5-40

R5-41

R5-42

R5-43

### Response to Comment R5-38

Based on discussions with and input from the U.S. Fish and Wildlife Service and the California Department of Fish and Game, the HCP has been revised (see Appendix C of this Final EIR/EIS) to include a more detailed strategy and timeline for the Other Covered Species Conservation Strategy.

### Response to Comment R5-39

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy*.

### Response to Comment R5-40

IID maintains that the right to use water for agricultural purposes includes the right to mitigate the environmental impacts of those agricultural uses. Water Code Section 1011 states that the conservation of water normally used for agricultural purposes pursuant to Section 1011 is an agricultural use.

### Response to Comment R5-41

Approach 1, which included stocking tilapia in the Salton Sea and constructed ponds, has been eliminated from consideration. See Master Response for *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS.

### Response to Comment R5-42

Approach 1, which included stocking tilapia in the Salton Sea and constructed ponds, has been eliminated from consideration. See Master Response for *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS.

### Response to Comment R5-43

Approach 1, which included stocking tilapia in the Salton Sea and constructed ponds, has been eliminated from consideration. See Master Response for *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS.